In the High Court of Uttaranchal, at Nainital.

W.P. No. 277 (S/B) of 2004

Shishupal Singh Rawat …Petitioners.

Vs.

State of Uttaranchal and 6 others ..Respondents.

Sri N.N. Pandey, learned counsel for the petitioner.
Sri K.P. Upadhyaya, learned Standing Counsel for the State.

Date: 18-9-2004

Coram: Hon'ble Mr. Justice Irshad Hussain, J.
Hon'ble Mr. Justice J.C.S. Rawat,J.

P.C:

Heard Sri N.N. Pandey, learned counsel for the petitioner and Sri K.P. Upadhyaya, learned Standing Counsel for the State.

2- This writ petition has been filed for the following feliefs:-

(i) To issue a writ of certiorari or writ, direction or order in the nature of certiorari to quash the judgment and order dated 24-10-998 (Annexure 1 to writ petition) of the State Public Services Tribunal, O.P. No. 7.

(ii) To issue a writ of certiorari or writ, direction or order in the nature of certiorari to quash the punishment order dated 2.12.85 (Annexure-2 to the writ petition).

(iii) To issue a writ of certiorari or writ, direction or order in the nature of certiorari to quash/ expunge the adverse entry dated 18-6-85 (Annexure 3 to the writ petition) and rejection order dated 31.3.99 (Annexure 5 to the writ petition).

(iv) To issue a writ of certiorari or writ, direction or order in the nature of certiorari to quash/ expunge the adverse entry dated 1-8-1985 (Annexure-7 to the writ petition) and rejection order dated 31.3.199 (Annexure-9 to the writ petition).

(v) To issue writ of mandamus or writ, direction or order in the nature of mandamus commanding the opposite parties to allow all the admissible benefits of pay, increment, seniority

etc. and to refund Rs. 3610/- to the petitioner, as if the impugned punishment order contained in annexure on.2 to the writ petition, has not been passed.

(vi) To issue a writ of mandamus or writ, direction or order in the nature of mandamus directing the opposite parties to allow the petitioner's pending appeals contained in annexure nos. 6 and 10 to the writ petition and also award costs.

3- The petitioner was serving as Van Daroga and some punishment order was passed against him on 2.12.1985. He has preferred representations against the adverse entries which were not disposed of by speaking order and cumulatively all these orders were impugned before the Public Service Tribunal. The claim petition was decided on merit per judgment dated 24.10.1998 whereby the punishment order dated 2.12.1985 was maintained and claim petition with regard to the said impugned order was dismissed. The claim petition was however partly allowed and it was directed that the representations dated 20.6.1986 and 15.4.1986 shall be decided by a speaking order by the respondent authorities.

4- In compliance of the order of the Tribunal the concerned authorities have disposed of the representation referred above and the orders are contained in Annexure-5 and Annexure No. 9 to the writ petition. these orders were passed in the year 1999. It is averred that the petitioner has preferred an appeal against the order of rejection of the representations before the respondent no.3 which is pending disposal. In view of this the present writ petition is premature. Even otherwise if the petitioner was aggrieved by rejection of his representations against the adverse entries he could have preferred a fresh claim petition before the Tribunal which is the efficacious alternative remedy to the petitioner. We are therefore not inclined to entertain this petition against those orders passed against the petitioner.

5- As regard the order dated 2.12.1985 is concerned that has become final in view of the order dated 24-10-1998. The petition also suffers from in-ordinate delay and latches because nothing of substance has been shown to indicate that the petitioner was prevented by cogent reason from preferring the writ petition at least within a

period of three months. Considering this also we are not inclined to admit the petition against the order maintaining the punishment order dated 2.12.1985.

6- For the reasons aforesaid the writ petition is dismissed.

(J.C.S. Rawat, J.) **(Irshad Hussain, J.)**

ISB